

Government ADP Procurement



THE COURSE DIRECTOR

ADP procurement is a rigorous, intricate process. Success requires that it be clearly understood and that—whether you are a government buyer or industry seller—you become adept at making the process *work for you*. To provide you with such understanding and adeptness—to give you hard, practical guidance—requires an unusual combination of talents. It requires an individual who has: (1) thorough *knowledge* of the subject and its demands; (2) *experience* in the *application* of that knowledge; and (3) the *ability to teach* in terms which you can readily relate to your tasks. Few people possess these qualifications. Among the few who do is our Course Director.

MR. JOSEPH J. PETRILLO

Education Mr. Petrillo received his undergraduate degree from the Georgetown University School of Foreign Service. He then went on to receive his law degree from the Georgetown University Law Center, where he served as an Editor of the *Georgetown Law Journal*.

Experience An attorney with offices in Washington, D.C., Mr. Petrillo is a specialist in government ADP procurement matters—counseling clients on diverse problems involving hardware, software, services, conversion, time-sharing, etc. He authors articles dealing with procurement matters for a national legal newspaper, and is Associate Editor of both the American Bar Assn.'s *Public Contract Law Journal* and the Federal Bar Assn.'s *Government Contracts Newsletter*.

Teaching Ability Mr. Petrillo, an accomplished instructor, regularly lectures for various professional organizations, educational institutions and industry groups. The clarity and depth of his presentations have earned him a reputation for instructional excellence.

THE FORMAT

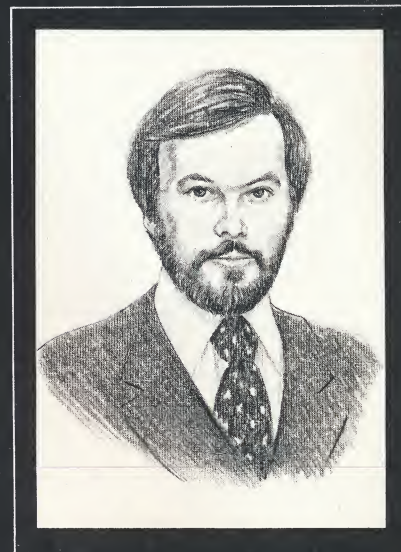
Two full days—12 concentrated hours of training. Training which includes lectures and question-&-answer sessions—a technique which gives you a massive body of information, plus the opportunity to discuss matters with which you are particularly concerned.

THE MANUAL

An exclusive *Manual* has been prepared by the Course Director for distribution to attendees. It is designed to provide you—in one place—with an extensive body of working materials on the procurement of automatic data processing equipment, software and services. The *Manual*, printed on special paper to facilitate note-taking, is available from no other source (and may not be purchased separately).

CERTIFICATE AND ACCREDITATION

A handsome *Certificate Of Completion* will be issued to those who faithfully attend and successfully complete the course. In addition, the course has been approved for 11 hours of credit by the Minnesota, Wisconsin, Iowa (no hours assigned), Kentucky, Idaho, Florida (no areas or hours designated), Washington and North Dakota Continuing Legal Education authorities, and by the Ohio, Arizona, Indiana, Washington, South Dakota and New Mexico Boards of Accountancy.



LOCATIONS & DATES / 1981

LAS VEGAS
May 28-29 [Thurs/Fri]
Riviera Hotel
702 • 734-5110

BOSTON
June 25-26 [Thurs/Fri]
Copley Plaza
617 • 267-5300

DAILY SCHEDULE

Registration	★	8:45 first day
Meetings	★	9:00-12:00 1:30- 4:30
Coffee Breaks	★	10:30-10:45 3:00- 3:15

★ SETTING THE STAGE ★

1. DEFINED ADP NEEDS

- a. How Govt Uses ADP
 - 1. "Ordinary" ADP
 - 2. "Custom" ADP
- b. Feasibility Studies
 - 1. Estimating users' needs
 - 2. Projecting agency resources
- c. When To Start Selling
 - 1. Agency users
 - 2. Contracting office

2. MEETING ADP NEEDS

- a. Share Before Buy
 - 1. Existing Govt resources
 - 2. Mandatory GSA contracts
- b. In-House Or Contract Out?
 - 1. Pros & Cons
 - 2. OMB Circular A-76
- c. Buying Major Systems
 - 1. OMB requirements
 - 2. Agency rules

3. FEDERAL GOVT RULES

- a. General Laws
 - 1. Federal Property & Administrative Services Act
 - 2. Armed Services Procurement Act
- b. General Regulations
 - 1. Multi-agency
 - 2. Single agency
- c. The Brooks Act
 - 1. When applicable
 - 2. Relation to other laws
 - 3. GSA's role
 - 4. Specific regulations
- d. Paperwork Reduction Act
 - 1. OMB's role
 - 2. Military exemption

4. THE PLAYERS

- a. OMB
 - 1. Overseeing budget
 - 2. ADP arbiter
- b. GSA
 - 1. Automated Data & Telecommunications Service
 - 2. Federal Supply Service
- c. Natl. Bureau Of Standards (NBS)
- d. Congress
 - 1. House Govt Operations Committee
 - 2. Other committees
- e. GAO
 - 1. Management studies
 - 2. Legal opinions
 - 3. Audits
- f. The Using Agencies
 - 1. System users
 - 2. Procurement staff
- g. Who's On First?
 - 1. In theory
 - 2. In practice

★ HARDWARE PROCUREMENT ★

5. STARTING

- a. Agency Procurement Request
 - 1. When necessary
 - 2. Contents
 - 3. Getting GSA approval
- b. If Agency Buys
 - 1. "Delegation of Procurement Authority" (DPA)
 - 2. Conditional DPA's
 - 3. Continuing GSA oversight
 - 4. Small purchases
- c. If GSA Buys
 - 1. Agency's technical role
 - 2. GSA's contracting role
 - 3. The "ADP fund"

6. NEGOTIATE vs. ADVERTISE

- a. When Govt Must Advertise
 - 1. Present law
 - 2. Proposed law
 - 3. Fixed-price only
- b. When Govt Negotiates
 - 1. Inadequate specs
 - 2. Urgency
 - 3. Other valid reasons
 - 4. Special problems

7. EXPRESSING NEEDS

- a. The Specification Hierarchy
 - 1. Functional specs
 - 2. Performance specs
 - 3. Plug-to-plug compatibility
 - 4. Brand name or equal
 - 5. Make & model
- b. Mandatory Specs
 - 1. GSA role
 - 2. NBS role
 - 3. "Federal Information Processing Standards Publications"
- c. Restrictive Specs
 - 1. Package vs. component
 - 2. Commercial availability
 - 3. Other limitations

8. MAXIMIZING COMPETITION

- a. Publicizing Needs
 - 1. Special GSA Bidders' List
 - 2. Commerce Business Daily
- b. Sole Source Exception
 - 1. Urgency
 - 2. Compatibility
 - 3. Other circumstances

9. THE SOLICITATION

- a. General GSA Guidance
 - 1. Regulations
 - 2. Guidebook
- b. GSA-Required Forms
 - 1. Proposal preparations
 - 2. Proposal evaluation
 - 3. Mandatory clauses

10. TECHNICAL EVALUATION

- a. Mandatory Requirements
- b. Desirable Features
- c. System Validation
 - 1. Benchmarking
 - 2. Simulation
- d. Evaluation Criteria
 - 1. General rules
 - 2. Point scoring systems
- e. Evaluation Procedures

11. PRICE EVALUATION

- a. Cost/Technical Trade-Off
 - 1. Quality factors
 - 2. When price determines
- b. Lease Or Buy?
 - 1. Capitalizing equipment
 - 2. Cancellation charges
 - 3. Budgetary impact
 - 4. Present value
 - 5. Residual values
 - 6. Systems life
 - 7. Least cost
 - 8. Other considerations
- c. Options
- d. Conversion Costs
 - 1. When they're evaluated
 - 2. How they're evaluated
- e. Space Requirements
- f. Security Needs
- g. Technical Staff Support

12. NEGOTIATIONS

- a. Who Is Eligible?
 - 1. The competitive range
 - 2. No talks necessary
- b. "Meaningful" Discussions
 - 1. Obligatory subjects
 - 2. Forbidden topics

13. AWARD

- a. Source Selection
- b. To Other Than Low Bidder
 - 1. For longer life system
 - 2. Future costs
 - 3. Financial reliability
 - 4. Technical reliability
- c. Notification
 - 1. To winner
 - 2. To loser
- d. Debriefing
 - 1. When required
 - 2. Sample topics
- e. Protests
 - 1. Protest to agency
 - 2. Protest to GAO
 - 3. Injunction suits
 - 4. What can happen
 - 5. Strategy & tactics
 - 6. Bid preparation costs

RRICULUM

14. SPECIAL HARDWARE BUYS

- a. The ADP Schedule
 - 1. How to get on
 - 2. Pros & cons
- b. Federal Supply Schedule
 - 1. Equipment covered
 - 2. Off-schedule buys
- c. Mandatory Requirements Contracts
 - 1. Scope
 - 2. Future trends

★ SOFTWARE & SERVICES ★

15. SOFTWARE

- a. The Growing Market
- b. Brooks Act Application
 - 1. Jurisdictional dispute
 - 2. Living with it
 - 3. GSA requirements
- c. "Bundling"
 - 1. As part of hardware
 - 2. Separate procurement
 - 3. Pros & cons
- d. Structuring The Purchase
 - 1. Advertised procurement
 - 2. Negotiated procurement
 - 3. Contract forms
- e. Specifications
 - 1. Defining the work
 - 2. Language level
 - 3. Mandatory standards
- f. Evaluation
 - 1. Technical factors
 - 2. Price factors
 - 3. Cost/quality trade-off
- g. Award Process
 - 1. Selection
 - 2. Notification & debriefing
 - 3. Protests

16. REMOTE PROCESSING

- a. Instead Of System Purchase
- b. Time-Sharing Program
 - 1. GSA role
 - 2. Mandatory use
 - 3. Multiple awards
 - 4. Competitive purchases

17. TELECOMMUNICATIONS

- a. ADP Needs Analysis
- b. Special GSA Oversight

★ ADP CONTRACT PROBLEMS ★

18. ACCEPTANCE OF WORK

- a. Benchmarking
 - 1. Standards
 - 2. System validation
- b. Parallel Processing
 - 1. Contractor cooperation
 - 2. Is use acceptance?

19. CONTRACTOR WARRANTIES

- a. Special ADP Clauses
- b. General Warranties
- c. Special Warranties
- d. Implied Warranties

20. GOVT-ORDERED CHANGES

- a. Identifying Change
 - 1. Scope of work
 - 2. Contract ambiguities
- b. Recovering Costs
 - 1. Fixed-price contracts
 - 2. Cost-plus contracts
- c. Obligation To Continue Work
 - 1. While in dispute
 - 2. Limits of doctrine

21. SERVICE CONTRACT ACT

- a. When It Applies
 - 1. Software
 - 2. Miscellaneous services
 - 3. Maintenance
- b. Govt Obligations
 - 1. Notification to Labor Dept.
 - 2. Contract clauses
 - 3. Wage determination
 - 4. Enforcement
- c. Contractor Obligations
 - 1. Wages
 - 2. Fringe benefits
 - 3. Unclassified employees
 - 4. "Successor" contractors
 - 5. Professional wage-busting

22. PRIVACY ACT

- a. Application To ADP
- b. Contractor Risks
 - 1. Criminal sanctions
 - 2. Civil sanctions
- c. How To Comply
 - 1. OMB guidelines
 - 2. Federal standards
 - 3. Practical steps

23. GOVT REMEDIES

- a. Contract Termination
 - 1. Default
 - 2. Convenience
- b. Inspection Remedies
- c. Warranties
- d. Damages
 - 1. Liquidated
 - 2. Reprourement costs
 - 3. Common law

24. CONTRACTOR REMEDIES

- a. Price Increase
- b. Time Extension
- c. Typical Disputes
- d. Procedures
 - 1. Contracting Officer decision
 - 2. Administrative appeals
 - 3. Court litigation
 - 4. Contract Disputes Act

★ INTELLECTUAL PROPERTY ★

25. BASIC RIGHTS

- a. Patents
- b. Copyrights
- c. Trade Secrets

26. TECHNICAL DATA

- a. Federal Contract Clause
- b. Unlimited Rights
- c. Limited Rights
- d. Restrictive Legends
 - 1. Authorized restrictions
 - 2. Unauthorized restrictions
 - 3. Removing protective legends
- e. Other Problem Areas
- f. Designating Data

27. COMPUTER SOFTWARE

- a. Commercial Protection
- b. Govt Contract Clause
 - 1. Scope
 - 2. Restricted rights
 - 3. Special considerations

28. PROTECTIVE TOOLS

- a. Trade Secrets Act
- b. Freedom Of Information Act
 - 1. The "(b) (4) exception"
 - 2. The "(b) (1) exception"
 - 3. Administrative procedures
 - 4. Reverse FOIA suit
- c. Remedies For Govt Release
 - 1. Injunction
 - 2. Damages for infringement
 - 3. Other damages
- d. Proposed Pitfalls
 - 1. Restrictive legends
 - 2. Forfeiture clauses

★ STATE & LOCAL PROCUREMENT ★

29. UNDER FEDERAL GRANT

- a. Federal Oversight
- b. State Role
- c. Special Procedures
- d. Deregulation

30. WITH LOCAL FUNDS

- a. Sample State Procedures
- b. Model Procurement Code
- c. Federal Procedures Compared

★ THE FUTURE ★

31. WHERE WE'RE HEADED

- a. Reorganization Reports
- b. GAO Recommendations
- c. ADP Procurement As A Model

USF

University of San Francisco

SCHOOL OF LAW

OFFICE OF THE DEAN

“ what the computer *can't* do”

If you have the right buttons to punch—and you punch them in the right way—you can do almost anything. From adding $2 + 2$ to sending rockets to the moon. *Almost* anything... but *not quite*. Because computers, and the software upon which they rely, *do* have their limitations. They're wondrous devices—but they're not human.

One thing they *can't* do is buy and sell themselves. That takes original thought, judgment, imagination and just plain savvy... which only *people* can have. People who wish to satisfy their computer needs (the buyers)—and people who wish to market their computer products (the sellers).

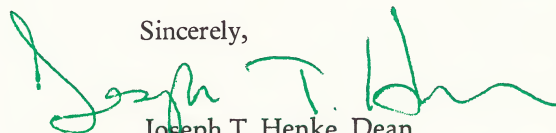
The greatest need to be satisfied is that of the United States Government—the world's largest purchaser of computer hardware and software. Runners-up are the numerous State and local government authorities which have computer needs of their own. These special government needs have spawned special government purchasing procedures... and (as a corollary) special marketing techniques by those who sell to government users. Both the government purchasing official (if he is to be effective)—and the computer firm's representative (if he is to be successful)—must be thoroughly familiar with the content and *application* of those procedures. And so must their lawyers, accountants and other professional advisors.

That's the reason for this unusual course: *Government ADP Procurement*.

Developed for us by Federal Publications Inc., it is programmed to carefully guide you through the intricate processes employed by governments (Federal, State and local) to procure automatic data processing hardware and software. It concentrates not only on the rules of the game, but on how to *practically and beneficially operate* within those rules. The exhaustive scope of the course is detailed in the accompanying *Course Curriculum*—as are the exceptional qualifications of the *Course Director* who is responsible for your training. In addition to lecturing and answering your questions, he has authored a unique *Manual*, which each attendee will receive.

As we said at the beginning, computers can do many things, but they are not capable of buying and selling themselves. That takes people with *knowledge... experience... talent*. We can do nothing about the last two attributes. However, we believe that, should you choose to attend this course, the two intensive days you spend with us will give you the foundation of *knowledge* to do what the computer *can't* do.

Sincerely,



Joseph T. Henke, Dean
School of Law

23
TED NELSON PRES
PO BOX 128
SWARTHMORE PA 19081

REGISTRATION APPLICATION

Detach and mail this Application—including the above address label—to the exact address stated below

ADP PROCUREMENT COURSE

Seminar Division Office ■ Fifth Floor
1120-20th Street NW ■ Wash. D.C. 20036

Enclosed please find my \$525 check (\$550 if this registration is made later than two weeks before the session starts) covering registration for the following 1981 session of *Government ADP Procurement*. (Please make check payable to *ADP Procurement Course*.)

- ☐ May 28-29 ★ Las Vegas ★ Riviera Hotel
☐ June 25-26 ★ Boston ★ Copley Plaza

I understand that (a) an acknowledgment of this registration will be sent to me, and (b) this registration may not be cancelled later than two weeks before the session starts (but I may name a substitute registrant at any time before the session starts).

Name _____

Title _____

Organization _____

Mailing Address _____

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ADP PROCUREMENT COURSE

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GENERAL INFORMATION

REGISTRATION Fee for the Course, including all instruction materials, is \$525 (\$550 if this registration is made later than two weeks before the session starts). To register, mail the accompanying application form to the *exact Washington D.C. address* stated thereon—along with your check payable to *ADP Procurement Course*. Registrations (a) will be accepted in the order of receipt, (b) are limited by the capacity of available facilities, (c) are made with the understanding that sound recordings of the proceedings are prohibited, and (d) may not be cancelled later than two weeks before the session starts (but a substitute registrant may be named at any time before the session starts).

HOTELS Although the Course registration fee does not include (and we assume no responsibility for) room reservations, we have—as a convenience—arranged for the meeting hotel to set aside a limited block of guest rooms on a first-request basis. Should you wish to make reservations there, we suggest that you contact the hotel *promptly*—being sure to state that you will be attending the Course administered by *Federal Publications*.

MAIL & MESSAGES Registrants should arrange to have all mail and telephone messages directed to their hotel rooms. There are no facilities for delivering messages to the registrants during Course sessions, and the sessions cannot be interrupted for that purpose.

FURTHER INFORMATION This program has been developed and is administered for the University by Federal Publications Inc. If added information is desired, contact: Miss J. K. Van Wycks ■ Seminar Division Office ■ Fifth Floor ■ 1120-20th Street NW ■ Washington D.C. 20036 ■ Code 202/337-7000

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THE PRINTOUT • how previous attendees rate Mr. Petrillo and this course

Mr. Petrillo's presentation has been excellent. He has made a very complex subject easy to understand. *William F. Gehan: Eastman Kodak Company*

Extremely good—well presented. *Clara O. Mathe: Corps of Engineers*

A fast paced, thorough presentation accompanied by an excellent reference book for future use in dealing with the Govt. *Albert C. Beeson, Jr.: Data Lease Plans*

The Manual is a first-rate desk book for attorneys engaged in ADP matters. I plan to keep it very close at hand. *Michael J. Mullin, Esquire: U.S. Air Force*

Well suited to industry and Federal ADP procurement practitioners. *Lorenz Schreier: Dept. of Agriculture*

Easy to follow and well organized. *Mark Chazan: Boeing Computer Services Co.*

Excellent knowledge of the pertinent facts, supplemented with a clear presentation. *Mike Davis: Oregon Software*

Unusually good because it combined a great breadth of scope with emphasis on practical detail. *Humphrey Polanen, Esquire: National Advance Systems*

Mr. Petrillo's examples were well chosen. He also has the knowledge to specifically answer questions on the spot. *John E. Schwartz: U.S. Coast Guard*